



BEFORE THE ARIZONA CORPORATION CC

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

JUL - 3 2008

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
ASHCREEK WATER COMPANY FOR AN
EXTENSION OF ITS EXISTING CERTIFICATE
OF CONVENIENCE AND NECESSITY FOR
WATER SERVICE.

DOCKET NO. W-02494A-07-0681

DECISION NO. 70409

OPINION AND ORDER

DATE OF HEARING:

May 9, 2008

PLACE OF HEARING:

Tucson, Arizona

ADMINISTRATIVE LAW JUDGE:

Belinda A. Martin

APPEARANCES:

Mr. Bevan Barney, Interim Manager, on
behalf of Ashcreek Water Company; and

Mr. Charles Haines, Staff Attorney,
Legal Division, on behalf of the Utilities
Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. Ashcreek is a Class 'E' regulated water utility that is currently providing water
service near Thatcher in Graham County, Arizona, pursuant to a Certificate of Convenience and
Necessity ("Certificate" or "CC&N") granted by the Commission to the Company in Decision No.
55745 (September 25, 1987). The Company provided water to approximately 20 customers under the
name Desert Rose Water System from at least 1975 and prior to receiving its CC&N.

2. On February 21, 2001, the Commission's Utilities Division Staff ("Staff") filed a

1 complaint against Ashcreek. The complaint alleged, among other things, that Ashcreek had failed to
2 comply with a previous Commission order by not timely installing meters for all customers; failing to
3 properly read meters and maintain meter data; failing to file a required application for rate review;
4 failing to keep books and records in accordance with the National Association of Regulatory Utility
5 Commissioner's Uniform System of Accounts; and failing to file required proof of ownership of all
6 wells.

7 3. On July 7, 2003, the Arizona Department of Environmental Quality ("ADEQ") issued
8 a Notice of Violation ("NOV") to Ashcreek for plant deficiencies because the Company lacked
9 sufficient storage to meet peak demands and minimum pressure requirements.

10 4. On August 13, 2003, the Commission issued Decision No. 66180, which authorized
11 Staff to engage a qualified interim manager to operate and manage Ashcreek. Since May 3, 2004, Mr.
12 Bevan Barney has been the Company's interim manager.

13 5. On June 21, 2005, the Commission issued Decision No. 67951 approving a Borderline
14 Agreement between the Company and Graham County Utilities. The Agreement authorized Ashcreek
15 to provide water service to an area known as White Fence Farms Subdivision. The Company
16 currently serves 30 customers in this subdivision.

17 6. On May 21, 2007, the Commission issued Decision No. 69581, which authorized
18 Ashcreek to implement new rates and charges and also authorized the Company to issue new debt to
19 fund system improvements and ensure system reliability. During the proceedings, the Company
20 acknowledged that it was serving customers outside of its current certificated area. As such, one of
21 the compliance items in the Decision No. 69581 was that the Company had to file within 120 days of
22 the Decision an application for an extension of its CC&N covering these customers. Another
23 compliance item was that the Company had to file a copy of the ADEQ Certificate of Approval to
24 Construct for its storage tank project by December 31, 2007 and the ADEQ Approval of Construction
25 for the storage tank project by May 31, 2008.

26 7. On May 11, 2007, the Company filed with the Commission a request for a moratorium
27 on new connections to the Ashcreek Water System. The Commission granted the request in Decision
28 No. 69734 (July 30, 2007).

1 8. On December 12, 2007, Ashcreek filed with the Commission its application for an
2 extension of its CC&N ("Application"), as required by Decision No. 69581, to an area more fully
3 described in the attached Exhibit A.

4 9. On January 10, 2008, Staff notified the Company that its application was not sufficient
5 pursuant to the Arizona Administrative Code.

6 10. February 6, 2008, the Company filed its Affidavit of Publication regarding the
7 Application.

8 11. On February 27, 2008, Staff notified the Company that its application was sufficient.

9 12. By Procedural Order dated March 18, 2008, the matter was set for hearing at the
10 Commission's offices in Tucson, Arizona, and procedural guidelines and deadlines were established.

11 13. By Procedural Order dated April, 11, 2008, a Motion to Withdraw filed by Ashcreek's
12 attorney of record was granted.

13 14. On April 14, 2008, Staff filed its Staff Report recommending approval of the
14 extension of the CC&N to include the requested area, contingent upon the Company's compliance
15 with certain conditions.

16 15. On April 24, 2008, filed its Affidavit of Publication regarding the hearing.

17 16. On May 9, 2008, the hearing in this matter convened before a duly authorized
18 Administrative Law Judge at the Commission's Tucson offices. No members of the public appeared
19 for public comment.

20 17. Ashcreek provides water service to approximately 99 customers near Thatcher,
21 Arizona, in an unincorporated area of Graham County.

22 18. Of those 99 customers, 30 are residents of the White Fence Farms Subdivision that
23 come under the approved Borderline Agreement with Graham County Utilities and the Company
24 does not seek to add this area to its CC&N. Of the remaining 69 customers, 36 are currently within
25 the certificated area. The Company now seeks to add the 33 customers it is serving that are not within
26 its existing CC&N.

27 19. The areas sought to be included in the Company's CC&N are contiguous to its
28 existing certificated area.

1 20. The Company's existing water system consists of two wells and a distribution system.
2 Combined, the two wells produce a total of 75 gallons per minute. The system has no storage tanks,
3 but the Company is making progress in its attempts to have a storage tank installed, as required by
4 Decision No. 69581.

5 21. The Company obtained its Approval to Construct, but it does not believe it will be
6 able to comply with the order that it file an ADEQ Approval of Construction by May 31, 2008
7 because of difficulties obtaining necessary easements for the transmission line. As such, ground has
8 yet to be broken for the installation of the storage tank. Mr. Barney hopes to have the project
9 completed in approximately 90 days and has applied to Staff for an extension of time to file the
10 Approval of Construction.

11 22. Without the storage tank, Staff concluded that the water system is inadequate to serve
12 the present customer base, but with the addition of the 20,000 gallon storage tank, Ashcreek will have
13 sufficient capacity to serve that base.

14 23. Therefore, Staff recommends approval of the Application on the condition that
15 Ashcreek complete the installation of the storage tank as ordered in Decision No. 69581. Once the
16 project is complete, Ashcreek should file as a compliance item in this Docket, and pursuant to the
17 terms of Decision No. 69581 as well, an Approval of Construction from ADEQ within 30 days of its
18 receipt.

19 24. Ashcreek's existing system is regulated by ADEQ who has determined that this
20 system is currently delivering water that meets water quality standards required by Arizona
21 Administrative Code, Title 18, Chapter 4. ADEQ does note that the NOV is still outstanding, but
22 according to Staff, ADEQ believes the deficiencies will be corrected once the storage tank is
23 installed.

24 25. The Company is not located within an Active Management Area therefore is not
25 subject to Arizona Department of Water Resources reporting and conservation requirements.

26 26. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
27 maximum contaminant level ("MCL") in drinking water from 50 parts per billion ("ppb") to 10 ppb.

28 27. The Staff Report indicates that the Company reported arsenic concentrations in one

1 well as 19 ppb and in the other as 3.2 ppb. According to information received from ADEQ, the
2 Company is addressing the arsenic issue by blending water from its two wells.

3 28. Ashcreek has an approved Curtailment Tariff. Testimony from Staff indicated that the
4 Company now also has an approved Backflow Tariff.

5 29. Every applicant for a CC&N and/or CC&N Extension is required to submit to the
6 Commission evidence showing that the applicant has received the required consent, franchise or
7 permit from the proper authority. Ashcreek provided to Staff a copy of the Franchise Agreement from
8 Graham County demonstrating that the proposed extension area is included within the boundaries of
9 Ashcreek's present Graham County franchise for water.

10 30. Ashcreek has no outstanding compliance issues with the Commission.

11 31. Staff's recommendations as set forth in Findings of Fact No. 23 are reasonable and
12 should be adopted.

13 CONCLUSIONS OF LAW

14 1. Ashcreek Water Company is a public service corporation within the meaning of
15 Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

16 2. The Commission has jurisdiction over Ashcreek Water Company and the subject
17 matter of the Application.

18 3. Notice of the Application was provided in accordance with law.

19 4. There is a public need and necessity for water service in the proposed revised
20 extension area as set forth in Exhibit A.

21 5. Ashcreek Water Company is a fit and proper entity to receive a CC&N to provide
22 water service in the proposed extension area.

23 6. Staff's recommendations as set forth in Findings of Fact No. 23 are reasonable and
24 should be adopted.

25 ORDER

26 IT IS THEREFORE ORDERED that the application of Ashcreek Water Company for an
27 extension of its Certificate of Convenience and Necessity to provide water service in an
28

unincorporated area of Graham County, Arizona, as more fully described in the attached Exhibit A, is approved upon the condition that Ashcreek Water Company file with Docket Control as a compliance item in this docket, a copy of the ADEQ Approval of Construction of the 20,000 gallon storage tank by December 31, 2008.

IT IS FURTHER ORDERED that this Decision granting the requested CC&N extension be considered null and void, after due process, should Ashcreek Water Company fail to meet the above condition within the time specified.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

Lowell G. Mason
CHAIRMAN

William M. Wood
COMMISSIONER

Elizabeth H. Miller
COMMISSIONER

R. M. [Signature]
COMMISSIONER

James L. [Signature]
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 3rd day of July, 2008.

[Signature]
BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR:

ASHCREEK WATER COMPANY

DOCKET NO.:

W-02494A-07-0681

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EXHIBIT "A"

LEGAL DESCRIPTION

The South half of the Northeast quarter of Section 1, Township 7 South, Range 24 East of the Gila and Salt River Meridian,

and the Southwest quarter of the Northeast quarter, the West half of the Southeast quarter, and the Southwest quarter, all in Section 7, Township 7 South, Range 25 East of said Gila and Salt River Meridian,

and G.L.O. Lot No. 1 (occasionally and erroneously referred to as the Northwest quarter of the Northwest quarter), in Section 18, Township 7 South, Range 25 East of said Gila and Salt River Meridian,

all within the County of Graham, State of Arizona.

